



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R03-OAR-2013-0498; FRL- 9908-05-Region-3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Approval of Redesignation Requests of the West Virginia Portion of the Steubenville-Weirton, OH-WV Nonattainment Area for the 1997 Annual and 2006 24-Hour Fine Particulate Matter Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of West Virginia's requests to redesignate to attainment the West Virginia portion of the Steubenville-Weirton, OH-WV nonattainment area (hereafter "the Steubenville-Weirton Area" or "the Area") for both the 1997 annual and the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS or standards). EPA is also approving as a revision to the West Virginia State Implementation Plan (SIP), the associated maintenance plans to show maintenance of the 1997 annual and the 2006 24-hour PM_{2.5} NAAQS through 2025 for the West Virginia portion of the Area. West Virginia's maintenance plans include insignificance findings for the mobile source contribution of PM_{2.5} and nitrogen oxides (NO_x) emissions to the West Virginia portion of the Area for both the 1997 annual and 2006 24-hour PM_{2.5} standards, which EPA agrees with and is approving for transportation conformity purposes. In addition, EPA is approving the 2008 emissions inventory for the West Virginia portion of the Area for the 2006 24-hour PM_{2.5} NAAQS. EPA has taken a separate rulemaking action to approve the redesignation of the Ohio portion of the Steubenville-Weirton Area for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. These actions are being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days from date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2013-0498. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE, Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Emlyn Vélez-Rosa, (215) 814-2038, or by e-mail at velez-rosa.emlyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 13, 2012 and June 8, 2012, the West Virginia Department of Environmental Protection (WVDEP) formally submitted two separate requests to redesignate the West Virginia portion of the Steubenville-Weirton Area from nonattainment to attainment for the 1997 annual and the 2006 24-hour PM_{2.5} NAAQS, respectively. Each submittal included a maintenance plan as a SIP

revision to ensure continued attainment of the standards throughout the West Virginia portion of the Area over the next 10 years. The June 8, 2012 submittal also includes a 2008 comprehensive emissions inventory for PM_{2.5}, sulfur dioxide (SO₂) and NO_x for the 2006 24-hour PM_{2.5} NAAQS, which WVDEP supplemented on June 24, 2013 to include emissions of volatile organic compounds (VOC) and ammonia. The Steubenville-Weirton Area is comprised of Brooke County and Hancock County in West Virginia (the West Virginia portion of the Area), and Jefferson County in Ohio.

On December 9, 2013 (78 FR 73769), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. In the NPR, EPA proposed approval of West Virginia's redesignation requests for its portion of the Steubenville-Weirton Area for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. EPA also proposed approval of the associated maintenance plans as SIP revisions for the 1997 annual and 2006 24-hour PM_{2.5} standards, which included insignificance determinations for PM_{2.5} and NO_x for both standards for purposes of transportation conformity. Also, EPA proposed approval of the 2008 comprehensive emissions inventory for the 2006 24-hour PM_{2.5} standard to meet the requirement of section 172(c)(3) of the CAA. EPA proposed to find that the Area continues to attain both standards.

In the NPR, EPA addressed the effects of two decisions of the United States Court of Appeals for the District of Columbia (D.C. Circuit or Court): The Court's August 21, 2012 decision to vacate and remand to EPA the Cross-State Air Pollution Control Rule (CSAPR); and the Court's January 4, 2013 decision to remand to EPA two final rules implementing the 1997 annual PM_{2.5} standard. Specific details of West Virginia's submittals and the rationale for EPA's proposed

actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is taking final actions on the redesignations requests and SIP revisions submitted by the State of West Virginia on April 13, 2012 and June 8, 2012 for the 1997 annual and 2006 24-hour $PM_{2.5}$ standards. First, EPA is approving West Virginia's redesignation requests for the 1997 annual and 2006 24-hour $PM_{2.5}$ standards, because EPA has determined that the requests meet the redesignation criteria set forth in section 107(d)(3)(E) of the CAA for these standards. Second, EPA is finding that the Steubenville-Weirton Area is attaining and will continue to attain both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. Third, EPA is approving the associated maintenance plans for the West Virginia portion of the Area as revisions to the West Virginia SIP for the 1997 annual and 2006 24-hour $PM_{2.5}$ standards because they meet the requirements of CAA section 175A. EPA is also approving for both standards West Virginia's transportation conformity insignificant determinations for $PM_{2.5}$ and NO_X emissions for the Area. Finally, EPA is approving the 2008 comprehensive emissions inventory for the 2006 24-hour $PM_{2.5}$ standards NAAQS as a revision to the West Virginia SIP because it meets the requirements of section 172(c)(3) of the CAA. Approval of these redesignation requests will change the official designations of the West Virginia portion of the Steubenville-Weirton Area from nonattainment to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, respectively.

III. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is

published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed, and shall not postpone the effectiveness of such rule or action. This action, approving the redesignation requests and maintenance plans for the West Virginia portion of the Steubenville-Weirton Area for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS and the 2008 comprehensive emissions inventory for the 2006 24-hour PM_{2.5} NAAQS, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR part 81

Air pollution control, National parks, Wilderness areas

Dated: February 27, 2014.

W. C. Early,
Acting Regional Administrator,
Region III.

40 CFR parts 52 and 81 are amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart XX– West Virginia

2. In § 52.2520, the table in paragraph (e) is amended at the end of the table by:

a. Adding an entry for the 1997 annual PM_{2.5} Maintenance Plan, West Virginia portion of the Steubenville-Weirton, OH-WV Area.

b. Adding an entry for the 2006 24-hour PM_{2.5} Maintenance Plan, West Virginia portion of the Steubenville-Weirton, OH-WV Area.

The additions read as follows:

§ 52.2520 Identification of plan.

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(e) ***

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * *	* * *			
1997 annual PM _{2.5} Maintenance Plan for Steubenville-Weirton OH-WV Area	Brooke County and Hancock County	4/13/12	<u>[Insert Federal Register publication date]</u> <u>[Insert page number where the document begins]</u>	

2006 24-hour PM _{2.5} Maintenance Plan for Steubenville-Weirton OH-WV Area	Brooke County and Hancock County	6/8/12	<u>Insert Federal Register publication date</u> <u>[Insert page number where the document begins]</u>	
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PART 81 – DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

2. Section 81.349 is amended by:

a. Revising the PM_{2.5} (Annual NAAQS) table entry for the Steubenville-Weirton, OH-WV Area.

b. Revising the PM_{2.5} (24-hour NAAQS) table entry for the Steubenville-Weirton, OH-WV Area.

The amendments read as follows:

§ 81.349 West Virginia

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West Virginia – PM_{2.5} (Annual NAAQS)

Designated Area	Designation ^a	
	Date ¹	Type
* * * * *		
Steubenville-Weirton, OH-WV		
Brooke County	<u>[Insert Federal Register publication date]</u>	Attainment

Hancock County	<u>[Insert Federal Register publication date]</u>	Attainment
* * * * *		

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

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West Virginia – PM_{2.5} [24-hour NAAQS]

Designated Area	Designation for the 1997 NAAQS ^a		Designation for the 2006 NAAQS ^b	
	Date ¹	Type	Date ²	Type
* * * * *				
Steubenville-Weirton, OH-WV:				
Brooke County	<u>[Insert Federal Register publication date]</u>	Unclassifiable/ Attainment	<u>[Insert Federal Register publication date]</u>	Attainment
Hancock County	<u>[Insert Federal Register publication date]</u>	Unclassifiable/ Attainment	<u>[Insert Federal Register publication date]</u>	Attainment
* * * * *				

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

² This date is 30 days after November 13, 2009, unless otherwise noted.

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